

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant Requesting Reissue:)	
Lonnie G. Johnson)	Art Unit: 3754
Patent No. 6,540,108)	Examiner: Derakshani, Philippe
Granted: April 1, 2003)	
Reissue Application No.: 10/657,827)	
Filed: September 8, 2003)	
Titled: TOY WATER GUN)	

SUBSTITUTE REISSUE APPLICATION DECLARATION BY INVENTOR

I, Lonnie G. Johnson, of 201 The Prado, Atlanta, GA 30309, declare that I am a citizen of the United State, that the entire title to letters patent number 6,540,108 for TOY WATER GUN, granted on April 1, 2003 to me is vested in Johnson Research & Development Company, Inc., the consent of which was given on August 18, 2003, that I verily believe I am the original and first inventor of the invention described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent; that I do not know and do not believe that said invention was ever known or used in the United States of America before the invention thereof by me; that such patent is inoperative by reason of claiming less than I was entitled to claim. Specifically, I verily believe I was the first to invent and was entitled to claim the broad concept of a water gun having a housing; a storage reservoir adapted to hold liquid; an expandable pressure tank adapted to hold liquid and to expand under induced tension upon introducing liquid in excess of a selected volume therein and thereby exert a force upon the liquid; a pump for draining liquid from the storage reservoir and depositing the drawn liquid into the expandable pressure tank; conduit means for conveying liquid from the expandable pressure tank to ambience; and trigger functionally coupled to the conduit means, whereby the actuation of the trigger causes water to be expelled through the conduit means, as set forth in new claims 19-42. The claims of said letters patent excessively limited the water gun to that having control means for controlling the flow of liquid through the conduit means. With the advent of recent court cases regarding means plus function language within claims, it has come to my attention that the term control means may be considered to be narrowly constructed in finding literal

infringement to those which are actually shown in the patent. However, the water gun may be operational with any type of conventionally know liquid flow controller, or in other words, any trigger or triggering mechanism. As such, I am hereby requesting that the patent be reissued so that the limitation of control means may be changed to a broad definition of any type of trigger. This error occurred because at the time the patent claims were drafted I was not aware that the Court would take such a narrow view of means plus function language. The initial patent application was prepared with the understanding that the term control means could include any and all types of control means in defining the scopes of the patent. It is my understanding that in assessing literal infringement, Courts now find that means plus function language may include only that which is shown in the patent. Upon reviewing the newly issued patent at issue it was discovered that all claims included the means plus function language of a "control means" with regarding the trigger mechanism for controlling the flow of water. To correct this defect I requested my patent attorney to reissue the patent utilizing the broader term of a trigger or controller instead of the term control means.

New claim 19 corrects the error by reciting the water gun comprising a housing; a storage reservoir adapted to hold liquid; an expandable pressure tank adapted to hold liquid and to expand under induced tension upon introducing liquid in excess of a selected volume therein and thereby exert a force upon the liquid; a pump for drawing liquid from the storage reservoir and depositing the drawn liquid into the expandable pressure tank; conduit means for conveying liquid from said expandable pressure tank to ambience; and a trigger functionally coupled to the conduit means, whereby the actuation of the trigger causes water to be expelled through the conduit means.

Claims 20 – 24 all depend from new claim 19 and therefore similarly eliminate the unnecessary limitation found in corresponding claims 2-6.

New Claim 25 corrects the error by reciting a water gun comprising a liquid storage reservoir; an elastic pressure tank adapted to be expanded and contracted upon changes in the volume of liquid pumped therein; a liquid pump; first conduit means for conveying liquid contained within the storage reservoir to the pump; second conduit means for conveying liquid from the pump to elastic pressure tank; third conduit means for conveying liquid from the elastic pressure tank to ambience; and a trigger coupled to one of the conduit means, whereby liquid within the storage reservoir is pumped into the elastic pressure tank through

the first and second conduits thereby forcing the elastic pressure tank to its second configuration so as to pressurize liquid therein which is controllably released from the elastic pressure tank through the third conduit means by actuation of the trigger.

Claims 26 – 30 all depend from new claim 25 and therefore similarly eliminate the unnecessary limitation found in corresponding claims 8-12.

New Claim 31 corrects the error by reciting a water gun comprising a housing, a storage reservoir; elastic pressure tank for exerting pressure on a body of liquid therein of a magnitude relative to the volume of the body of liquid; a pump which draws liquid from the storage reservoir and depositing the drawn liquid into the elastic pressure tank; a conduit which conveys liquid from the elastic pressure tank to ambience; and a trigger, whereby the trigger controls the flow of liquid through the conduit.

Claims 32 – 36 all depend from new claim 31 and therefore similarly eliminate the unnecessary limitation found in corresponding claims 14-18.

New Claim 37 corrects the error by reciting a water gun comprising a housing, a storage reservoir; elastic pressure tank for exerting pressure on a body of liquid from said storage reservoir and depositing the drawn liquid into said elastic pressure tank; a conduit which conveys liquid from said elastic pressure tank to ambience; and a controller functionally coupled to the conduit, whereby the controller controls the flow of liquid through the conduit.

Claims 38 – 42 all depend from new claim 37 and therefore similarly eliminate the unnecessary limitation found in corresponding claims 14-18.

Such error arose without any deceptive intent on my part and upon a failure to fully convey to my patent attorney common alternative designs for the control means. The error was discovered a few weeks prior to the filing of the reissue application upon a review of the newly issued patent and for assessment of the scope of the patent and possible infringement thereof.

I hereby state that I have reviewed and understand the contents of the application for reissue filed on September 8, 2003 as serial number 10/657,827, including the new claims requested to be added.

I acknowledge the duty to disclose information which is material to the patentability of the Application for Reissue in accordance with Title 37, Code of Federal Regulations, Section 1.56 et seq.

I hereby appoint the following attorneys to prosecute the application and to transact all business in the Patent and Trademark Office connected therewith, said counsels having full power of substitution and revocation:

Customer No.: 49,840

Dorian B. Kennedy, Reg. No. 36,840
Baker, Donelson, Bearman, Caldwell & Berkowitz PC
Six Concourse Parkway
Suite 3100
Atlanta, Georgia 30328
Phone (678) 406-8700
Fax (678) 406-8701

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements, and the like, so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereof.

Full name of inventor: Lonnie G. Johnson

Inventor's signature:



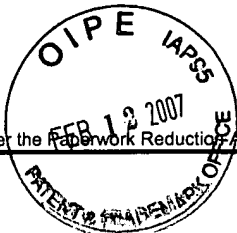
Date:

JAN. 22, 2007

Residence: 201 The Prado, Atlanta, GA 30309

Citizenship: United States of America

Post Office Address: 201 The Prado, Atlanta, GA 30309

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Johnson Research & Development Co., Inc.Application No./Patent No.: 08/402,624 / #6,540,108 Filed/Issue Date: March 13, 1995 / April 1, 2003Entitled: TOY WATER GUNJohnson Research & Development Co., Inc., a Georgia Corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____ %)

in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 009458, Frame 0739, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

February 6, 2007

Date

Dorian B. Kennedy

Printed or Typed Name

678-406-8700

Telephone Number

Attorney

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.